

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ISMAEL TOVAR CARRANZA,
Petitioner,

No. C 08-1586 MHP (pr)

ORDER OF DISMISSAL

v.

JAMES A. YATES, Warden,
Respondent.

This action was commenced when Ismael Tovar Carranza filed a petition for writ of habeas corpus to challenge a 2004 conviction in Contra Costa County Superior Court. However, he already has a habeas petition pending that challenges the same conviction, see n Carranza v. Yates, C 07-1114 MHP. A person seeking habeas relief generally must assert all his claims against a conviction in a single petition, and cannot bring a second or successive petition without permission from the U.S. Court of Appeals for the Ninth Circuit, see 28 U.S.C. § 2243(b)(3). Because Carranza did not obtain permission to file the current petition, this action (i.e., Case No. C 08-1586 MHP) is DISMISSED.

Attached to his petition as an exhibit is a document entitled "Traverse To Return To Petition For Writ of Habeas Corpus." Although the document has the wrong case number and wrong court on it, it might be intended as the traverse for his earlier-filed action because it has that case name on it and no traverse was filed in that action. Accordingly, the clerk will file in Case No. C 07-1114 MHP a copy of the "Traverse" attached to the petition in this action so that it will be part of the appropriate case file.

1 The petition also causes a concern that Carranza may be attempting to add new claims
2 about his 2004 conviction in addition to the lone speedy trial claim asserted in his earlier-
3 filed action. If he wants to add new claims about that conviction, the way to do that is to file
4 a motion to amend his petition in Case No. C 07-1114 MHP, rather than file a new petition.
5 Carranza must file any motion to amend his petition in Case No. C 07-1114 MHP no later
6 than **October 31 2008**. In his motion to amend, Carranza should clearly identify each
7 constitutional violation that he claims occurred and describe the facts that show each such
8 constitutional violation. If he has not filed a motion to amend by that deadline, the court
9 will understand that to mean he does not intend to assert any claims other than the speedy
10 trial claim.


11 For the foregoing reasons, this action is DISMISSED. Carranza shall file no further
12 documents in this action and shall file any documents concerning his habeas action in his
13 earlier filed action (i.e., Case No. C 07-1114 MHP (pr)), and clearly write that case number
14 on the first page of any document he files in this court.

15 The in forma pauperis application is DENIED as unnecessary. (Docket # 2.)

16 The clerk shall file a copy of this order in Case No. C 07-1114 MHP and serve it on
17 the respondent's counsel in that action. The clerk then shall close the file.

18 IT IS SO ORDERED.

19 DATED: September 23, 2008


Marilyn Hall Patel
United States District Judge